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Report of the Working Group on the Universal Periodic Review*

Bulgaria

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

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Please recycle

Response of the Government of Bulgaria to recommendations made during the Second Cycle of the Universal Periodic Review, 7 May 2015

1. The Government of Bulgaria welcomes the recommendations made during the Second Cycle of its Universal Periodic Review on 7 May 2015 and is pleased to provide the following responses, to be included in the outcome report.

2. The Government of Bulgaria received 182 recommendations. The responses are clustered in three categories: I. Accepted recommendations; II. Accepted recommendations that Bulgaria considers already implemented or in process of implementation; III. Not accepted/ Noted recommendations.

I. Accepted recommendations

3. The Government of the Republic of Bulgaria accepts the following recommendations:

Rec.123.1–123.5 – accepted in principle.

Rec.123.6, 123.7 and 123.8 – accepted in principle. The Government of the Republic of Bulgaria is currently not planning to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Fundamental human rights are enshrined in the United Nations Civil and Social Rights Covenants and these rights apply directly to all migrants in Bulgaria. The national legislation already guarantees most of the rights contained in the Convention and shares its objectives. The rights of migrant workers are also protected by the existing EU legislation. A final decision on ratification will be reached as a joint decision by all EU Member States;

Rec.123.11–123.22;

Rec.123.23 – accepted in principle. It should be noted that at present the Republic of Bulgaria does not consider necessary the creation of such an institution, since the amendments to the Ombudsman Act from 2012 stipulate that the Ombudsman protects and promotes the rights of children and young people by all legal means;

Rec.123.24–123.30;

Rec.123.31 – accepted. It should be taken into consideration that the term *national minority* is incorrect as it has no grounds in the Bulgarian legislation;

Rec.123.32–123.36; 123.39–123.45;

Rec.123.46 – accepted under the stipulation that "prohibiting" is an incorrect term;

Rec.123.47–123.48; 123.50–123.54; 123.56–123.57; 123.59–123.61; 123.63–123.75;

Rec.123.76 – accepted with the reservation that the word "increase" represents a subjective point of view and cannot be accounted for;

Rec.123.77–123.79; 123.82–123.84;

Rec.123.85 – accepted with the reservation that to "end discrimination" would be technically impossible, but vigorous efforts are being made to minimize all such cases;

Rec.123.86–123.90; 123.92–123.96; 123.100–123.116; 123.118; 123.120–123.124; 123.126–123.137; 123.139; 123.142–123.144; 123.147–123.150;

Rec.123.151 – see rec. 123.31;

Rec.123.153–123.155; 123.158–123.161;

Rec.123.166 – accepted in principle. It should be noted that migrants' human rights are fully protected, once they've been granted international protection or refugee status;

Rec.123.167–123.168; 123.170–123.182.

II. Accepted recommendations that Bulgaria considers already implemented or in process of implementation

4. The Government of the Republic of Bulgaria accepts the following recommendations and considers that they are already implemented or in the process of implementation:

Rec.123.37–123.38 – We consider that this recommendation is implemented. The Republic of Bulgaria has a comprehensive and extensive legislation ensuring wider employment opportunities for women, based on the National Strategy and National Action Plan for Promotion of Gender Equality. The Bulgarian society is known for its respect towards women and the lack of severe negative stereotypes. The Government is actively promoting the elimination of traditional division of roles between women and men in family relations and upbringing of children. Special measures are being taken to create the necessary conditions for women to successfully combine professional and family life which is directly linked to women's workload and their position on the labour market, as well as their income and economic independence;

Rec.123. 49 – We consider that this recommendation is implemented. The principle of non-discrimination, including based on gender, has been incorporated throughout the Bulgarian legislation. It applies equally to all Bulgarian citizens. The Protection against Discrimination Act (PaDA) forbids all forms of direct and indirect discrimination based on 19 grounds, including gender (art. 4), and such acts have been criminalized in Chapter III of the Penal Code;

Rec.123.58 – We consider that this recommendation is implemented. The entire national legislation guarantees equal access to education, housing and employment to all Bulgarian citizens, including those of Roma origin;

Rec.123.62 – We consider that the activities for the implementation of this recommendation are already ongoing. The incitement to hatred is criminalized by the Penal Code. The Commission for Protection against Discrimination collects data for all cases of incitement of hatred, including hatred motivated by xenophobia and homophobia. Serious and adequate steps have been taken to boost the national legislation ensuring protection against hate crimes. Furthermore, there is extensive EU legislation on the matter, which the state bodies fully implement;

Rec.123.81 – We consider that the implementation of this recommendation is ongoing. The Constitution prohibits racial discrimination in the most categorical manner. According to the established case-law, racist motivation should be considered as an aggravating circumstance by the court in criminal offences. Draft amendments to the Penal Code introduce the criminalization of public incitement to violence or hate on religious grounds. All hate crimes are punishable and are being prosecuted with the full capacity of the State.

Although, under the Penal Code, sexual orientation and gender identity are not explicitly defined as aggravating circumstances, there is no obstacle for such elements of the crime to be taken into account – during the trial or while establishing the verdict.

The Bulgarian authorities note the recommendation to include the notion "sexual orientation";

Rec.123.91 – We consider that activities for the implementation of this recommendation are already ongoing. The Republic of Bulgaria is improving its national legal framework to bring it in line with the standards of the Council of Europe and to strengthen the capacity of the competent institutions involved in cases of domestic violence and gender-based violence. All cases of domestic violence, which can be qualified as crimes, are adequately prosecuted and effectively investigated;

Rec.123.97–123.98 – We consider that significant measures have already been taken in view of overcoming the recommendation – training of magistrates for the enforcement of the domestic violence protection measures; training of persons who are responsible for the provision of the protection under the law; social, psychological and legal consultation of domestic violence victims and specialized programmes for the perpetrators of domestic violence; providing victims of domestic violence with access to shelters and other support services;

Rec.123.99 – Regarding the first part of the recommendation, we consider that activities for it implementation are ongoing and we accept the second part of the recommendation as already implemented. According to the Bulgarian legislation, matrimony may be concluded by a person at the age of 18. Upon exception, in case that important reasons impose this, matrimony may be concluded by a person at the age of 16 with a permission by the court;

Rec.123.117 – We consider that this recommendation is implemented. The Republic of Bulgaria has an adequate system for victim protection which fully incorporates all relevant international standards. The fulfilment of the victim's rights is guaranteed by the existing procedural mechanisms, and no limitations are put in place for the victims of hate crimes;

Rec.123.119 – We consider that the activities for the implementation of this recommendation are already ongoing, paying attention that "establishing" is an incorrect term. A process of revision and renovation of the Bulgarian juvenile justice system is currently undergoing to adequately respond to the changes in the society and to correspond to the up-date standards in the field of juvenile justice, while reflecting the international good practices and Bulgarian traditions;

Rec. 123.125 – We consider that this recommendation is implemented. The family as a fundamental unit has been provided with legal protection on the highest possible level – in the Constitution and throughout the entire national legislation;

Rec. 123.138 – We consider that the activities for the implementation of this recommendation are already ongoing. The right to education for all children without discrimination is fully realized. We will continue the implementation of the activities to minimise the dropout rates in schools and pre-schools among minority and vulnerable groups;

Rec. 123.140 – We consider that this recommendation is implemented. All children have equal access to education, regardless of their ethnic origin. Regarding the term *national minority* see rec. 31;

Rec. 123.145 – We consider that the activities for the implementation of this recommendation are already ongoing. In June 2015, an Action Plan was adopted for the implementation of the Convention on the Rights of Persons with Disabilities. A National Strategy for people with disabilities is in the process of preparation;

Rec. 123.146 – We consider that this recommendation is implemented. There is a Draft Law on the Protection of Natural Persons and the Protective Measures prepared that introduces guarantees for the protection of persons with mental disabilities in full compliance with the Art.12 of the UN Convention on the Rights of Persons with Disabilities. Furthermore, a general prohibition on discrimination, also on grounds of "disability" is introduced in the Protection against Discrimination Act (PaDA). A special section of the PaDA is dedicated to protection in cases of exercising the right to education and training. The system of social services in Bulgaria has developed considerably during the past few years thanks to the recent reforms aimed at deinstitutionalization and provision of more community-based services in a family environment for children and adults with disabilities. There is a steady increase in the services provided in the community as an alternative to institutional care. The construction of well-functioning network of social services in the community and providing quality long-term care is a top priority for the social policy of the Bulgarian government.

We express our disagreement with the word "adopt", since the Republic of Bulgaria has a number of public norms and policies for the protection of people with disabilities (see rec. 123.145);

Rec.123.156–123.157 – We consider that the implementation of these recommendations is already ongoing. The State will continue its efforts to strengthen policies to integrate Roma population and to continue the implementation of the National Roma Integration Strategy with special focus on employment, health, housing and education;

Rec.123.162 – We consider that the activities for the implementation of this recommendation are already ongoing. There is a Draft Law Amending and Supplementing the Penal Code that is under discussion at the National Assembly. The Draft envisages amendments to Art. 79 of the Penal Code, concerning deletion of the statute of limitation for prosecution and implementation of punishments in view of certain crimes, committed on political reasons by persons, associated with the communist regime after 9th of September 1944;

Rec.123.169 – We consider that this recommendation is already implemented. The correct name of the integration strategy is National Strategy on Migration, Asylum and Integration (2015–2020). The national legislation provides sound protection of the rights and freedoms of refugees and asylum seekers.

III. Not accepted/ Noted recommendations

5. The Government of the Republic of Bulgaria cannot accept the following recommendations:

Rec.123.9 – The national legislation already guarantees the rights of all workers to the maximal possible extend, regardless of their activity. Furthermore, Bulgaria is state party to the main acts of the International Labour Organisation and is committed to their implementation;

Rec.123.10 – The Republic of Bulgaria has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 16 December 1986;

Rec.123.55 – The national legislation guarantees equal access to all forms of education to all Bulgarian citizens, regardless of their gender and/or ethnic background;

Rec.123.152 – The Republic of Bulgaria is a state party to the Framework Convention for the Protection of National Minorities of the Council of Europe. All rights

and freedoms therein are respectively protected by the Constitution and the national legislation. Every person belonging to an ethnic, religious or linguistic minority is entitled to self-identification without any adverse consequences;

Rec.123.80, 123.141, 123.163, 123.164 and 123.165.